IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.389 OF 2007

Shri Jagdish Ganpat Pandya ...Appellant

Versus

The Municipal Corporation of Gr. Mumbai. ...Respondent

Smt Asha Joshi for the Appellant.
Ms.Geeta Joglekar for the Respondent.

CORAM : ABHAY S.OKA, J.
DATED : JUNE 13, 2007.

P.C.:

1. Heard Advocates appearing for the parties. Considering the facts and circumstances of the case, taken up for hearing forthwith. The Appellant is the original Plaintiff who filed a suit for declaration that the Respondents are not entitled to dispossess him of the suit premises more particularly described in the suit. A Notice of Motion was taken out for temporary injunction restraining the Respondents from dispossessing the Appellant. By order impugned dated 19th April, 2007, the learned Judge of the City Civil Court decided the prayer made by the Appellant for grant of ad-interim relief. In the impugned order the learned trial Judge recorded the statement made by the Advocate for the Respondent that due process of law will be

followed by the Respondent. After recording the statement, the learned trial Judge proceeded to direct that he was granting time of one month to the Appellant to quit the premises though his prayer for ad-interim injunction was not considered.

2. I have heard the learned Advocates appearing for the parties. The learned Advocate for the Respondent accepted that a statement was made before the learned trial Judge that the Respondent will adopt due process of law for dispossessing the Appellant. She states that a proposal for grant of alternate accommodation is under consideration of the concerned authority of the Respondent-Corporation. She submits that if alternate accommodation is offered to the Appellant, it will not be necessary to follow due process of law and the Appellant will have to vacate the suit premises.

3. In view of the aforesaid statements made by the learned Advocate for the Respondent, Appeal is disposed of by passing following order:

(i) The impugned order dated 19th April, 2007 quashed and set aside.

(ii) Till disposal of the Notice of Motion No.893 of 2007 the Respondent is restrained from dispossessing the Appellant without following due process of law.

(iii) If the Respondent-Corporation decides to offer alternate accommodation to the Appellant, the ad-interim relief hereby granted will stand automatically vacated on expiry of period of one week from the date on which a communication is received by the Appellant regarding the allotment of alternate accommodation.

(iv) Hearing of Notice of Motion is expedited and the same shall be disposed of expeditiously.

(v) Appeal is partly allowed in above terms with no orders as to costs.

JUDGE